HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 25765 OF 2003

Dated 5th June, 2006

Between:
G.J.Siva Sankarnath

… Petitioner.

And

The Director of Tribal Welfare, T.S.Bhavan,
Masab Tank, Hyderabad –28 and others.

… Respondents.

ORDER:

The petitioner who is a student of Bachelor of Technology having been admitted during the academic year 2003-04, has filed this writ petition questioning the order of Director of Tribal Welfare issued in proceedings Rc.No.570/29/2003/TRI/VC-2, dated 28.10.2003 and the consequential show cause notice dated 4.11.2003 issued for cancellation of admission issued by the Commissioner of Technical Education/Convener, EAMCET-2003.

During the counseling, petitioner was allotted a seat reserved under Scheduled Tribe category basing on the certificate issued to him. But, when the 2nd respondent referred the caste certificate to the first respondent for verification, the first respondent, Director of Tribal Welfare, has passed order dated 28.10.2003, stating that the petitioner cannot be treated as Scheduled Tribe in Andhra Pradesh State and, therefore, he cannot be considered for admission into B.E./B.Tech course 2003-04. Inasmuch as admission was already granted by the Convener, EAMCET-2003, basing on the communication by the Director of Tribal Welfare, consequential show-cause notice was issued by the Convener on 4.11.2003 calling for the explanation as to why the provisional allotment of seat should not be cancelled.

This writ petition is filed questioning the order passed by the Director of Tribal Welfare as also the show-cause notice issued by the Convener, EAMCET-2006, mainly, on the ground that the caste certificate issued to him is valid, and, unless it is cancelled by the competent authority by following the procedure contemplated under the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes & Backward Classes) Regulation of Issue of Community Certificates Act,1993 and the rules made thereunder, the same has to

be acted upon. In nutshell, it is the case of the petitioner that the Director of Tribal Welfare is not competent to issue such a direction to the Convener, EAMCET-2003, and if the said direction, which is without jurisdiction, is allowed to stand, the same would amount to nullifying the certificate issued in favour of the petitioner.

On the other hand, learned Government Pleader submitted that the Collector is the competent authority to cancel the certificate and now the matter is referred to the Collector for passing appropriate orders by conducting necessary enquiry.

It is not in dispute that there was a certificate issued in favour of the petitioner certifying that he is a candidate belonging to Scheduled Tribe and that the said certificate has not been cancelled by the competent authority. It is also clear from the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes & Backward Classes) Regulation of Issue of Community Certificates Act,1993, and the rules made thereunder that the District Collector is the competent authority. In view of the said provision of law, the matter has now been referred by the Commissioner to the Collector for passing appropriate orders. Inasmuch as the declaration made by the first respondent will amount to nullifying the effect of the caste certificate issued to the petitioner and the consequential notice was issued solely relying upon the instructions issued by the first respondent, I set aside the order dated 28.10.2003 issued by the Director of Tribal Welfare in proceedings Rc.No.570/29/2003/TRI/VC-2 and the consequential show cause notice issued by the Convener, EAMCET-2003 for cancellation of admission. However, I make it clear that as it is stated that the matter is now referred to the Collector, who is the competent authority, it is open for him to proceed with the enquiry and pass appropriate orders as per the provisions under the Andhra Pradesh (Scheduled Castes, Scheduled Tribes & Backward Classes) Regulation of Issue of Community Certificates Act,1993, and the rules made thereunder.

The writ petition is, accordingly, allowed in part to the extent

indicated above. No order as to costs.

A copy of the order be sent to the District Collector, Kadapa District.

_____

5.6.2006 **(R.SUBHASH REDDY, J.)**

VR